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LETTER DATED 5 APRIL 1994 FROM THE PERMANENT REPRESENTATIVE OF GEORGIA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit to you the text of the declaration on measures for a political settlement of the Georgian/Abkhaz conflict and the text of the quadripartite agreement on voluntary return of refugees and displaced persons, signed in Moscow on 4 April 1994.

I would be grateful if the present letter and its annexes were circulated as a document of the Security Council.

(Signed) Peter P. CHKHEIDZE
Permanent Representative
Ambassador Extraordinary
and Plenipotentiary

Annex I

[Original: English and Russian]

Declaration on measures for a political settlement of the Georgian/Abkhaz conflict signed on 4 April 1994

1. The third round of negotiations on a comprehensive settlement of the Georgian-Abkhaz conflict took place from 22 to 25 February 1994 in Geneva, from 7 to 9 March 1994 in New York and from 29 to 31 March in Moscow under the aegis of the United Nations with the facilitation of the Russian Federation and with the participation of representatives of the Conference on Security and Cooperation in Europe (CSCE) and the United Nations High Commissioner for Refugees (UNHCR).

2. The negotiations were held in accordance with Security Council resolutions 849 (1993) of 9 July 1993, 854 (1993) of 6 August 1993, 858 (1993) of 24 August 1993, 876 (1993) of 19 October 1993, 881 (1993) of 4 November 1993, 892 (1993) of 22 December 1993, 896 (1994) of 31 January 1994, 901 (1994) of 4 March 1994 and 906 (1994) of 25 March 1994.

3. By signing this declaration, the parties hereby commit themselves to a strict formal cease-fire from this date and also reaffirm their commitment to the non-use of force or threat of the use of force against each other as expressed in their communiqué of 13 January 1994 (see S/1994/32, annex).

4. The parties have agreed to and signed a quadripartite agreement, a copy of which is attached to the present declaration, on the repatriation of refugees and displaced persons. The agreement provides for the return of refugees/displaced persons in accordance with existing international practice, including the practice of UNHCR. A special commission on refugees/displaced persons, which shall include representatives of the parties, UNHCR, the Russian Federation, and CSCE in an observer capacity, shall begin its work in Sochi in mid-April 1994. The implementation of the agreement will begin upon the deployment of a peace-keeping force.

5. The parties reaffirm their request for the early deployment of a peace-keeping operation and for the participation of a Russian military contingent in the United Nations peace-keeping force, as stated in the Memorandum of Understanding of 1 December 1993 (S/26875, annex) and the communiqué of 13 January 1994. The plan for carrying out the peace-keeping operation will be agreed upon with the parties to the conflict. The realization of the peace-keeping operation should also promote the safe return of refugees/displaced persons. The parties again appeal to the United Nations Security Council to expand the mandate of the United Nations Observer Mission in Georgia (UNOMIG).

6. Abkhazia shall have its own Constitution and legislation and appropriate State symbols, such as anthem, emblem and flag.

7. The parties held discussions on distribution of powers on the understanding that any agreement on this issue is part of a comprehensive settlement and will

be reached only once a final solution to the conflict has been found. At this stage, the parties have reached a mutual understanding regarding powers for joint action in the following fields:

(a) Foreign policy and foreign economic ties;

(b) Border guard arrangements;

(c) Customs;

(d) Energy, transport and communications;

(e) Ecology and elimination of consequences of natural disasters;

(f) Ensuring human and civic rights and freedoms and the rights of national minorities.

8. The parties agree to continue energetic efforts to achieve a comprehensive settlement. The Parties will set up an appropriate committee, which will work on a standing basis, taking into account the decisions of the Security Council under the chairmanship of the United Nations, with participation of representatives of CSCE and the Russian Federation and with the involvement of international experts. This body will meet alternatively in Moscow and Geneva. Its first meeting will be held in Geneva on 19 April 1994. A phased action programme will be worked out and proposals on the re-establishment of State and legal relations will be elaborated.

9. The parties decided to take additional measures in connection with the search for missing persons and the reburial of the dead.

10. The parties, based on the fact that there is no statute of limitations applicable to war crimes, agreed to intensify efforts to investigate war crimes, crimes against humanity and serious criminal offences as defined by international and national law and bring the perpetrators to justice. Inevitable punishment shall also be inflicted on persons who try or will try to undermine the peace process in Abkhazia by resorting to arms.

For the Georgian side:

(Signed) A. KAVSADZE

For the Abkhaz side:

(Signed) S. JINJOLIA

In the presence of:

From the United Nations:

(Signed) E. BRUNNER

From the Russian Federation:

(Signed) B. PASTUKHOV

From the Conference on Security and Cooperation in Europe:

(Signed) V. MANNO

Annex II

Quadripartite agreement on voluntary return of refugees and displaced persons signed on 4 April 1994

The Abkhaz and Georgian sides, hereinafter referred to as the Parties, the Russian Federation and the United Nations High Commissioner for Refugees,

Recalling Security Council resolutions 849 (1993) of 9 July 1993, 854 (1993) of 6 August 1993, 858 (1993) of 24 August 1993, 876 (1993) of 19 October 1993, 892 (1993) of 22 December 1993, 896 (1994) of 31 January 1994, 901 (1994) of 4 March 1994 and 906 (1994) of 25 March 1994,

Recognizing that the right of all citizens to live in and to return to their country of origin is enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights,

Noting conclusions 18 (XXXI) and 40 (XXXVI) of the Executive Committee of the Programme of the Office of the United Nations High Commissioner for Refugees, which constitute internationally agreed principles governing the repatriation of refugees,

Acting in accordance with the Memorandum of Understanding signed by the Parties on 1 December 1993 and especially paragraph 4, under which Parties expressed their willingness to create conditions for the voluntary, safe and dignified return of displaced persons to their permanent places of residence in all regions of Abkhazia,

Recalling that resolution 428 (V) of 14 December 1950, by which the General Assembly of the United Nations adopted the statute of the Office of the United Nations High Commissioner for Refugees, ascribes to the High Commissioner the function of providing international protection to refugees and of seeking permanent solutions for the problems of refugees, inter alia, by promoting and facilitating their voluntary repatriation,

Given the responsibility entrusted to the United Nations High Commissioner for Refugees to act, under the Secretary-General's authority, as the international lead agency for the repatriation of displaced persons to Abkhazia,

Noting the desire of the Parties to cooperate with each other to achieve full observance of the principles and safeguards governing voluntary repatriation,

Considering the need, therefore, to establish a framework to define modalities of such cooperation for implementation of the repatriation,

Noting that the Parties agree that a repatriation operation to Abkhazia will imply, prior to its implementation, that the security and living conditions in the areas of return are guaranteed.

HAVE AGREED ON THE FOLLOWING PROVISIONS:

1. The Parties agree to cooperate and to interact in planning and conducting the activities aimed to safeguard and guarantee the safe, secure and dignified return of people who have fled from areas of the conflict zone to the areas of their previous permanent residence.

2. For the purpose of the present agreement, the parties will guarantee the safety of refugees and displaced persons in the course of the voluntary repatriation and rehabilitation operations to be organized.

3. In implementing this voluntary repatriation programme, the Parties undertake to respect the following principles:

(a) Displaced persons/refugees have the right to return voluntarily to their places of origin or residence irrespective of their ethnic, social or political affiliation under conditions of complete safety, freedom and dignity;

(b) The voluntary character of the repatriation shall be ascertained and respected through appropriate arrangements;

(c) Displaced persons/refugees shall have the right to return peacefully without risk of arrest, detention, imprisonment or legal criminal proceedings.

Such immunity shall not apply to persons where there are serious evidences that they have committed war crimes and crimes against humanity as defined in international instruments and international practice as well as serious non-political crimes committed in the context of the conflict. Such immunity shall also not apply to persons who have previously taken part in the hostilities and are currently serving in armed formations, preparing to fight in Abkhazia.

Persons falling into these categories should be informed through appropriate channels of the possible consequences they may face upon return;

(d) The Parties shall ensure that returnees, upon return, will enjoy freedom of movement and establishment including the right to return to the areas where they lived prior to leaving the conflict zone or to the area of their choice;

(e) The Parties shall ensure that refugees and displaced persons, upon return, will get their expired documents (propiska, passport) extended and validated for their previous place of residence or the elected place of return;

(f) The Parties shall ensure that repatriants, upon return, will be protected from harassment, including unauthorized charges or fees and threat to life or property;

(g) Returnees shall, upon return, get back movable and immovable properties they left behind and should be helped to do so, or to receive whenever possible an appropriate compensation for their lost properties if return of property appears not feasible.

The Commission mentioned in paragraph 5 below will establish a mechanism for such claims. Such compensation should be worked out in the framework of the reconstruction/rehabilitation programmes to be established with a financial assistance through the United Nations Voluntary Fund;

(h) Displaced persons/refugees who choose not to return to Abkhazia shall continue to be assisted and protected until acceptable alternative solutions are found for such cases;

(i) In accordance with the fundamental principle of preserving family unity, where it is not possible for families to repatriate as units, a mechanism shall be established for their reunification in Abkhazia. Measures shall also be taken for the identification and extra care/assistance for unaccompanied minors and other vulnerable persons during the repatriation process;

(j) The Parties agree that refugees and displaced persons will be guaranteed unimpeded access to all available information on the situation in the areas where repatriation will take place. Such an information should be provided in the framework of a campaign to be launched by the Commission as mentioned in paragraph 9 (b) below.

4. For the purpose of the implementation of voluntary return of displaced persons and refugees to Abkhazia, a quadripartite Commission is hereby established.

5. The principal tasks of the Commission shall be to formulate, discuss and approve plans to implement programmes for the safe, orderly and voluntary repatriation of the refugees and displaced persons to Abkhazia from Georgia, the Russian Federation and within Abkhazia and for their successful reintegration. Such plans should include registration, transport, basic material assistance for a period of up to six months and rehabilitation assistance.

In order to create the conditions for the return of refugees and displaced persons, the Commission will establish a working group of experts to undertake an assessment of the level of damage to the economic and social infrastructure in Abkhazia, the availability of housing and the extent of damage to houses in the areas of return as well as the projected needs in rehabilitation/ reconstruction, with financial implications. This survey should be undertaken region by region according to the plan of return to be worked out and accepted by the Parties, bearing in mind that the Parties have agreed to start the repatriation operation with the Gali region.

6. The Commission shall be composed of four members, one being designated by each of the Parties and two representing the Russian Federation and the United Nations High Commissioner for Refugees.

In addition, the Conference on Security and Cooperation in Europe (CSCE) will designate a representative to attend the Commission's meetings in an observer capacity. If circumstances do not allow the designated CSCE representative to attend such meetings, the Commission will keep the CSCE mission in Georgia informed on a regular basis on the progress of the Commission's work.

7. Any member of the Commission may, when attending any meeting of the Commission, be accompanied by such advisers as the Party designating that member may deem necessary. Where a member of the Commission is unable to attend any meeting of the Commission, the Party concerned may designate a substitute.

8. The Commission shall meet as often as required, but no less frequently than once every month. Meetings of the Commission may be convened at the request of any of the members and shall be held on the territory of the Russian Federation, except as the members of the Commission may otherwise agree. The Parties agree to guarantee the personal security of the members of the Commission and personnel involved in the activities agreed.

The first meeting of the Commission shall be scheduled as soon as possible and no later than one week after the adoption by the Security Council of a resolution on a mechanism ensuring the security conditions in the areas of return.

9. During its first meeting, the Commission will set out the modalities of the assessment mentioned in paragraph 5 above and will establish a plan concerning:

(a) The areas where repatriation will be primarily conducted according to the level of guaranteed security and preparedness;

(b) The implementation of an information campaign among the displaced person/refugee population to encourage voluntary return;

(c) The registration process of persons expressing their willingness to return;

(d) The activities needed to safeguard the safety of returnees based on the principles set out in paragraph 3 (a) to (j) above;

(e) The needs for financial, transport and basic material assistance to displaced persons/refugees as well as projected needs for rehabilitation/reconstruction of the areas of return as mentioned in paragraph 5 above.

10. The Parties agree that representatives of refugees and displaced persons shall be provided with facilities to visit the areas of return and to see for themselves arrangements made for their return.

11. In the event of disagreement within the Commission regarding the application and interpretation of this Agreement, where such disagreement cannot amicably be settled among the members of the Commission, the Commission shall refer such disagreements to the Parties and to the Russian Federation and the United Nations High Commissioner for Refugees.

THE PARTIES, THE RUSSIAN FEDERATION AND THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES FURTHER AGREE AS FOLLOWS:

(a) UNHCR shall have direct and unhindered access to all displaced persons/refugees from Abkhazia in order to undertake activities essential to the discharge of its mandate and operational and monitoring responsibilities;

(b) Travel shall be facilitated between and within all areas where refugees and displaced persons are located and areas of return for the personnel of the United Nations and other relevant international and non-governmental agencies cooperating with the United Nations in repatriation, reintegration and rehabilitation programmes. It shall include the free use of airspace and authorized airstrips and airports for relief flights and the exemption from taxes and duties of all goods imported for use in the voluntary repatriation programme of displaced persons/refugees from Abkhazia and for the provision of relief integration and rehabilitation assistance to the Abkhazian region by the United Nations and cooperating agencies, as well as the expeditious clearance and handling of such goods;

(c) The Russian Federation will guarantee unimpeded transit of humanitarian supplies through its territory for the purposes of the present Agreement;

(d) UNHCR shall establish local offices, as deemed appropriate, at locations to be approved by the Parties concerned, to facilitate voluntary repatriation, reintegration and rehabilitation;

(e) The security of the staff and property of the United Nations and the cooperating agencies shall be guaranteed;

(f) The allocation and continued use by the Parties, the United Nations and the cooperating agencies of particularly designated radio frequencies for radio communications between their offices, vehicles, and staff, in areas where refugees and displaced persons are located and in areas of return, shall be provided.

This agreement shall enter into force with immediate effect and shall remain in force for the period required for the effective voluntary return of the displaced persons/refugees.

In witness whereof, the authorized representatives of the Abkhaz and Georgian sides, the Russian Federation and the United Nations High Commissioner for Refugees, have signed the present agreement.

Done at Moscow, this fourth day of April 1994 in four originals, three in the Russian language, and one in the English language, the four texts being equally authentic but the English text being authoritative for interpretation purposes.

For the Abkhaz side

(Signed) S. JINJOLIA

For the Georgian side

(Signed) A. KAVSADZE

For the Russian Federation

(Signed) B. PASTUKHOV

For the United Nations
High Commissioner for Refugees

(Signed) J. AMUNATEGUL